

Remarks

Amendments to the Specification

The specification has been amended to update the status of the patents and applications in the priority claim. The specification has also been amended to incorporate the sequence listing submitted electronically using EFS-Web 1.1 (discussed below). The sequence listing has been generated from the specification and figures and does not constitute new matter.

Amendments to the claims

Claim 1 has been amended merely to clarify that the claimed construct target HBV RNA and to make express what was otherwise inherent in the claim, i.e., that the antisense strand of 18-27 nucleotides is complementary to only a portion of the HBV RNA.

Claim 31 was objected to for recitation of “pharmaceutically acceptable carrier or diluent” rather than “a pharmaceutically acceptable carrier or diluent.” The indefinite article “a” has been added to the claim.

Claim 33 was rejected for lacking antecedent basis for “said modifications.” Applicants respectfully submit that proper antecedent basis existed in claim 1 for the recitation of “said modifications” in claim 33, even though it was not *ipsis verbis*. Nevertheless, claims 31 and claim 33 has been amended to provide *ipsis verbis* antecedent basis claim 33.

Objection to the Specification, the Priority Claim, and the Rejection under 35 U.S.C. § 112, first paragraph

The Office Action includes two complaints regarding the sequence listing. First, the Office asserts that SEQ ID NO.: 674 recites uracils rather than thymidines. The enclosed Sequence Listing presents SEQ ID NO.: 674 with thymidines. (The applicants note, however, that it would be clear to those skilled in the art that while the HBV gene sequence comprises DNA and, hence, thymidines, the corresponding target sequence to which the presently claimed constructs are directed comprises RNA, hence, uracils.)

The second objection to the sequence listing is that it comprises new matter, presenting SEQ ID NO.: 674 as GenBank Accession Number AF100308 whereas the present application and priority applications recited GenBank Accession Number AF100308.1. The applicants respectfully submit that these two are one and the same and would have been understood as such

by those of ordinary skill in the art. The ordinary artisan would have understood that that the “.1” tacked on to the end of the accession number referred to the version of the HBV sequence, the “AF100308” portion comprising the Accession Number proper. This is evident from the GenBank listing itself (emphasis added):

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LOCUS           AF100308                3215 bp    DNA        circular VRL 03-MAR-1999
DEFINITION      Hepatitis B virus strain 2-18, complete genome.
ACCESSION       AF100308
VERSION         AF100308.1  GI:4323196
KEYWORDS        .
SOURCE          Hepatitis B virus
ORGANISM        Hepatitis B virus
                Viruses; Retro-transcribing viruses; Hepadnaviridae;
                Orthohepadnavirus.
REFERENCE       1 (sites)
AUTHORS         Wen,Y.
TITLE           Sequence and functional study on hepatitis B virus in pregnant
                women in association with failure of protection by postexposure
                immunization in infants
JOURNAL         Unpublished
REFERENCE       2 (bases 1 to 3215)
AUTHORS         Wen,Y.
TITLE           Direct Submission
JOURNAL         Submitted (15-OCT-1998) Department of Molecular Virology, Shanghai
                Medical University, 138 Yi Xue Yuan Road, Shanghai 20032, China

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Moreover, SEQ ID NO.: 674 is GenBank entry AF100308.1, as recited on page 54 of priority application serial no. 60/358,580, filed February 20, 2002, all subsequent priority applications, and the present application.

Additional support for the present claims can be found throughout the priority application serial no. 60/358,580, including, but not limited to, pages 5-11.

In view of the foregoing, no new matter has been added to the specification, and the present application is entitled to priority of February 20, 2002. (Applicants note that in each subsequent application all prior applications recited therein, including 60/358,580, are incorporated by reference.)

Rejection of claims under 35 U.S.C. § 103

The claims were rejected as obvious over GenBank Accession Number AF100308, in view of Hamasaki et al. (FEBS Letters, 2003 Vol. 354 :51-54), Braasch et al. (Biochemistry, 2003 Vol. 42 :7967-7975), Elbashir et al., Matulic-Adamic et al. (US Patent No. 5,998,203), and/or Parrish et al. For the following reasons, the applicants respectfully traverse.

As the present application is entitled to the priority date of February 20, 2002, neither Hamasaki et al. (FEBS Letters, 2003 Vol. 354 :51-54) nor Braasch et al. (Biochemistry, 2003 Vol. 42 :7967-7975), at least, are prior art to the present application. While there are other reasons this rejection should be withdrawn, this reason by itself is sufficient. Accordingly, the applicants need not and do not address the Office's other assertions or interpretations regarding the prior art and not doing so is not acquiescence to their veracity.¹

In view of the foregoing amendments and remarks, the applicants submit that the claims are in condition for allowance, which is respectfully solicited. If the examiner believes a teleconference will advance prosecution, she is encouraged to contact the undersigned as indicated below.

Respectfully submitted,

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¹ Although the applicants do not respond to the other assertions in the Office Action, they must respectfully submit that while they understand that claims are given their broadest reasonable interpretation consistent with the specification, it is not reasonable to construe "50%" as being encompassed by "about 100%," and no person of ordinary skill in the art would construe it as such.